

THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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MICHAEL J. SULLIVAN
DIRECTOR

May 7, 1996
AO-96-17

Richard N. Freedman
89-7 Staniford Street
Newton, MA 02166-1128

Re: Gifts to contributors

Dear Mr. Freedman:

I am writing in response to your recent letter requesting an advisory opinion regarding whether you may present major contributors to your campaign with small gifts.

You are a candidate for state representative. You have stated that you are considering giving bottles of wine, valued at ten dollars or less, and purchased from your personal funds rather than campaign funds. Such a gift would be given to donors of \$250 or more.

You have asked four questions: (1) "Is there anything improper about my giving such a token of appreciation?" (2) "Must I report the gift as a contribution by me to my committee and an expenditure by the committee?" (3) "Would the reported donation have to be diminished by the value of the gift?" and (4) "Is there any particular restriction regarding alcoholic beverages?"

For the following reasons, (1) the gifts would appear to comply with the campaign finance law; (2) you should donate the cost of the wine to your committee, and then have the committee buy the wine. Your contribution to the committee would be reported as a receipt and the committee's purchase of wine would be reported as an expenditure; (3) the amount of the contribution would not be diminished by the value of the gift; and (4) the campaign finance law does not contain any restriction regarding the giving of alcoholic beverages.

Discussion

I. Propriety of the Expenditure

M.G.L. c. 55, s. 6 provides that political committees

may receive, pay and expend money or other things of value for the enhancement of the political future of the candidate . . ., for which the committee was

organized so long as such expenditure is not primarily for the candidate's or any other person's personal use, provided, however, that the director shall establish reasonable rules and regulations concerning such expenditures . . . [emphasis added].

Pursuant to M.G.L. c. 55, ss. 3 and 6, the office has issued regulations to further define expenditures which may be made by political committees. See 970 CMR 2.06.¹ You could purchase the gifts described in your letter, if the gifts are of reasonable value, and if you and your committee comply with the conditions set forth in 970 CMR 2.06(3)(b), which states that campaign funds may be used to pay for a gift where the gift is "of reasonable value" and the expenditure complies with the following conditions:

2. [Gifts may be made to persons who are not campaign workers if] the political committee or candidate will receive publicity and foster political goodwill as a result of making the gift or contribution, but provided further that:

a. the candidate or treasurer has no personal relationship with the individual or his family; and

b. the gift is appropriate to the occasion which has prompted the gift; and

c. making such gift is usual and customary practice of the political committee; and

d. the gift would not be made but for the interest in it enhancing the political future of the candidate or principle for which the committee was organized.
[Emphasis added].

Taking these requirements in turn, we would conclude that campaign funds could be used to make the expenditure:

1. Reasonable value

"Reasonable value" means a gift which is within the range of what is generally accepted to be average for the occasion prompting the gift. See AO-94-15. An expenditure for a gift to be given to a campaign worker is appropriate if the expenditure accurately reflects the contribution made by the worker. See 970 CMR 2.06(3)(b)1. Similarly, a gift to a contributor is appropriate if it reflects the contribution made by the contributor. For example, a \$10 bottle of wine would be

¹ Candidates for statewide office are subject to the provisions of 970 CMR 2.05 rather than 970 CMR 2.06.

considered reasonable for a contributor who gives \$250. A substantially larger gift, however, would not be within the range of what would generally be considered appropriate for the occasion.

2. Publicity

In the context of the regulation, we would interpret "publicity" broadly to mean receiving some kind of public recognition, whether formal or informal, of the gift. See AO-94-15. Giving a gift to a supporter of your campaign would, in almost any circumstance, result in receiving public goodwill in return.

3. Personal relationship

This office interprets "personal relationship" in the context of the regulation to include relatives and friends including colleagues, employees or other persons with whom the candidate socializes personally. Gifts to such persons would not be appropriate if the personal relationship is the primary reason for making the gift. Therefore, a political committee may not pay for a gift for a family member or friend which would be given because of the recipient's personal relationship. We assume that the gifts referred to in your letter would be given primarily to acknowledge contributions of \$250 or more, not because of any personal relationship with contributors.

4. Appropriateness to occasion

Gifts are appropriate to an occasion if the occasion generally calls for providing such a gift. For example, gifts to campaign workers, supporters or contributors for weddings, showers, graduations, or significant anniversaries of persons may be appropriate. Gifts may not, however, be appropriate when attending other affairs. Gifts of substantial value or gifts given primarily because of a personal relationship are generally not appropriate.

5. Usual and customary practice

We assume that if the practice is approved, you intend giving gifts of the type described as a usual and customary practice of the committee and that the gifts would not be made but for your interest in enhancing your political future.

6. Enhancement of political future

A "thank you" gift to a substantial contributor would, in our opinion, enhance your political future.

II. Reporting the expenditure

For each of the reasons listed above, the gifts could

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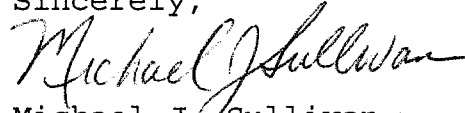
properly be made from campaign funds. You propose, however, making the expenditures personally in lieu of your committee's doing so.

A fundamental purpose of the campaign finance law is to ensure full disclosure of all expenditures made in support or opposition of a political campaign. See M.G.L. c. 55, s. 18, which states that all expenditures made "on behalf of" a campaign must be fully disclosed. To ensure compliance with s. 18, we would advise you to donate (in dollars) the cost of the wine to your committee, and then have the committee buy the wine. Your contribution to your committee, which may be a loan (subject to applicable limits) would be reported on Schedule A of your report as a receipt and the committee's purchase of the wine would be disclosed as an expenditure on Schedule B. Of course, you should note that if you make your contribution as a loan to your committee, you must also disclose the loan on Schedule D as a liability of the committee.

This opinion has been rendered on the basis of representations made in your letter and is solely in the context of M.G.L. c. 55.

Please do not hesitate to contact this office should you have additional questions about this or any other campaign finance matter.

Sincerely,


Michael J. Sullivan
Director

MJS/cp